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CONFIDENTIAL

SIPDIS
TELEGRAM

February 25, 2004

To: No Action Addressee
Action: Unknown
From: AMEMBASSY ABU DHABI (ABU DHABI 490 - ROUTINE)
TAGS: PREL, ETRD, KIPR
Captions: None
Subject: EMBASSY ABU DHABI COMMENTS ON DRAFT 2004 SPECIAL 301
REVIEW
Ref: None

C O N F I D E N T I A L ABU DHABI 00490

SIPDIS
CXABU:
ACTION: ECON
INFO: AMB DCM POL P/M
Laser1:
INFO: FCS

DISSEMINATION: ECON
CHARGE: PROG

APPROVED: AMB: MMWAHBA
DRAFTED: ECON:CMCRUMPLER
CLEARED: DCM: ALBRIGHT; CGD:DAVIS; ECON:JOHN; ATO:HENNEY; FCS:LANCIA

VZCZCADI894
RR RUEHC RUCNWTO RUCPDO
DE RUEHAD #0490/01 0560943
ZNY CCCCC ZZH
R 250943Z FEB 04
FM AMEMBASSY ABU DHABI
TO RUEHC/SECSTATE WASHDC 3296
INFO RUCNWTO/WORLD TRADE ORGANIZATION COLLECTIVE
RUCPDO/USDOC WASHDC

C O N F I D E N T I A L SECTION 01 OF 04 ABU DHABI 000490

SIPDIS

STATE FOR NEA/ARP, NEA/PPR AND EB/IPC FOR WILSON
STATE PASS USTR - PECK AND BUNTIN
STATE PASS LOC - STEPP
USDOC FOR USPTO - URBAN, LASHLEY-JOHNSON
USDOC FOR KSchLEGELMILCH

E.O. 12958: DECL: 02/23/09
TAGS: [PREL](#) [KIPR](#) [ETRD](#) [TC](#)
SUBJECT: EMBASSY ABU DHABI COMMENTS ON DRAFT 2004 SPECIAL
301 REVIEW

REFS: A) STATE 29549
B) ABU DHABI 403
C) ABU DHABI 91
D) 03 ABU DHABI 4594
E) 03 ABU DHABI 2981
F) 03 ABU DHABI 1028
G) 03 ABU DHABI 144

1. (U) Classified by Ambassador Marcelle M. Wahba for

reasons 1.5 (b) and (d).

¶2. (SBU) Summary and comment: The UAE Government continues to take the leading role in protecting intellectual property rights (IPR) in the region. Anecdotal and statistical evidence confirms that the UAEG is enforcing copyright, trademark and patent laws passed in 2002 to protect U.S. intellectual property, and continues to demonstrate its commitment to the 2002 agreement providing TRIPS-plus levels of protection to U.S. pharmaceuticals.

¶3. (SBU) Summary and comment continued: According to figures collected by the Business Software Alliance, the UAEG has dramatically trimmed the incidence of software piracy from 86 percent in 1994 to 36 percent in 2002 he lowest incidence of software piracy in the region. The Arabian Anti-Piracy Alliance likewise has noted that, "The UAE authorities have taken concrete and tough measures to enforce intellectual property rights by introducing laws that prescribe stiff penalties for violators."

¶4. (SBU) Summary and comment continued: Additionally, the UAE has undertaken a massive public relations and enforcement effort against counterfeiting and routinely destroys copy-cat goods in large public events. UAE authorities cooperate closely with U.S. businesses to prevent the trade of counterfeited goods. Based on its solid record on IPR protection and enforcement of IPR legislation in 2003, we strongly recommend that the UAE remain off the Special 301 Watchlist again this year. End summary and comment.

UAEG "Beefing Up" 2002 IPR Legislation

¶5. (U) In 2003, the UAEG sought to expand the scope of, and issue amendments to, the landmark copyright, trademark and patent laws issued in 2002 in harmony with international standards and exceeding the UAE's TRIPS obligations. Most notably, the UAE Ministry of Information said it would issue regulations under the 2002 Copyright Law allowing for specialized collecting societies. These societies are a practical way for sound recording companies to collect royalties on the broadcast and performance of copyrighted material. The Ministry of Information is actively implementing regulations with the Ministry of Justice. We expect the UAEG to release the new regulations by mid-2004, at the latest (ref B).

¶6. (U) In Dubai, the Ruler's Office currently is reviewing an amendment to the 2002 Electronic Transactions and Commerce Law (ETCL) that addresses data protection and privacy and other IP-related issues. The ETCL was issued in 2002, and is modeled on the UNCITRAL Model Law on Electronic Commerce adopted by the United Nations. A similar federal law is under consideration by the UAE Ministry of Justice that would address copyright violations on the Internet and covers all aspects of e-transactions and online activities, including privacy and data protection.

Sustained Patent Protection For U.S. Pharmaceuticals

¶7. (SBU) The UAE Ministry of Health (MoH) issued a circular in October 2003 strengthening the UAE's 2002 Patent Law, which failed to provide a mechanism for granting exclusive marketing rights absent MoH-Ministry of Finance (MoF) cooperation or afford any protection of data secrecy. The circular stated the mechanism of granting exclusive marketing rights in the UAE for all innovative pharmaceutical products registered in other countries. The circular also implied that the MoH would coordinate with the MoF to approve exclusive marketing rights, and offer protection for data secrecy. The circular was a welcome development for U.S. pharmaceutical manufactures that have

sought to codify the prevailing practice under the terms of the patent protection agreement reached with U.S. pharmaceutical industry group, PhRMA in March 2002 (ref D).

¶8. (C) Embodied in the March 2002 agreement, the written assurances of the MoH and MoF to ensure that no/no unauthorized copies of U.S. patent-protected medicines would be registered in the UAE is still holding firm and, in fact, the UAE has even refused to register copies during the last year of the 18 innovative pharmaceutical products that PhRMA agreed to allow local firm Julphar to produce in order to secure that agreement. According to the MoH Central Drugs Control Department, Emirati authorities destroyed more than 4 million pharmaceutical items in 2002 that violated IPR laws and were deemed "banned items."

¶9. (SBU) In 2003, the UAEG acted swiftly when U.S. pharmaceutical manufacturers evidenced patent infringement in the local market. Such incidents were infrequent, and often resulted from a fundamental misunderstanding of the March 2002 agreement at the UAEG working level. Most recently, Pfizer claimed that a local pharmaceutical manufacturer was illegally marketing Pfizer's registered version of Viagra in the UAE. When confronted with the evidence, the MoH agreed to delay the local manufacturer's marketing rights until 2005, and undertook to cancel Julphar's manufacturing privileges in the UAE if Pfizer could demonstrate that Viagra was still under patent protection in the United States (ref C).

Continuing Crackdown On Counterfeit Goods

¶10. (U) The UAE authorities are well aware of the danger to legitimate commerce posed by counterfeiting, particularly of safety-related items such as locks, automobile spare parts and food items. The government has conducted a public awareness campaign warning consumers of the dangers of buying fake products, and industry also has been active in this respect. A few examples include:

-- The Gulf News reported that Dubai Police confiscated and destroyed more than 1,000 boxes of counterfeit Yale and Union locks in June 2003, and arrested three resellers of the counterfeit goods.

-- The Dubai Chamber of Commerce established a Fake Parts Committee, in partnership with local auto-industry representatives including General Motors (GM), AC Delco, and Daimler Chrysler. A local GM official recently told Embassy officers that the company was pleased with the cooperation it has received from the UAEG, which recently seized more than USD \$1.4 million in counterfeit GM parts. He added that he would not/not support other private sector efforts to add the UAE to the Special 301 Watchlist.

-- In June 2003, manufacturers of the Austrian energy drink, Red Bull, won a trademark infringement lawsuit against a prominent local importer for selling a competitor product, called "Bullfighter." UAE courts decided that the importer attempted to capitalize on Red Bull's reputation and fined the importer AED 15,000 (USD \$4,087). Red Bull is a registered trademark in the UAE.

¶11. (U) Regular articles in the local dailies of raids and arrests of counterfeiters indicate that the authorities take seriously their responsibility to reduce the trade of other counterfeit consumer products, as well. Penalties for IPR violations include destruction of the counterfeit goods, destruction of the counterfeiting equipment, fines, imprisonment, and publication of judgment. Under the new Copyright Law of 2002, counterfeiters may face two to nine months imprisonment and a fine ranging from USD \$2,700 to \$55,000. The penalty is doubled for repeat offenders according to the number of copyrights violated. The following are a few recent examples:

-- In early 2003, the Dubai Public Prosecution charged a local company with software piracy for using one copy of Microsoft Windows, and downloading the program onto more than one computer without the written permission of Microsoft. The company's license specified the use of the program on only one computer. The Dubai Court of Appeal eventually confiscated the seized hardware and software and ordered the accused to pay AED 25,000 (USD \$6,811).

-- Local press reported in April 2003 that Dubai Police seized 87,000 counterfeit cameras brought to Dubai from an Asian country. Police received a tip-off that the cameras were stored in a warehouse, and arrested the owner.

-- The Ministry of Information and Dubai Economic Development Department recently began a crackdown against street vendors of pirated CDs and DVDs. According to the Economic Development Department, inspectors are permanently stationed at some of the market areas where such vendors congregate.

-- Following a complaint filed on behalf of the trademark right holder, the Dubai Public Prosecutor brought charges against an individual in August 2003 for the possession and intention to sell 17 boxes of a perfume bearing a counterfeit famous trademark. The Court ordered the accused to serve a 2-months jail term followed by deportation and ordered the seized goods to be confiscated.

-- In November 2003, Dubai authorities destroyed more than 400,000 fake watches in public, and forced the counterfeiters to witness the demolition. The event received coverage in the international 'Financial Times' newspaper, with a picture of the bulldozer at work.

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Anti-Counterfeiting Efforts Not Limited To Dubai
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¶12. (SBU) Although most anecdotal evidence of counterfeit trade centers in Dubai (indeed, most of the UAE's licit trade is via the emirate of Dubai), conversations with UAEG officials and news reports suggest that the other emirates are replicating Dubai's efforts to enforce federal IPR legislation.

-- In a February 29 meeting with the U.S. Consul General, Ruler of Sharjah Shaykh Sultan Al-Qassimi acknowledged the counterfeiting problem in the emirate and undertook to better enforce federal IPR legislation. He understands that Sharjah law enforcement must not only confiscate counterfeit goods, but also must vigorously arrest and prosecute IPR violators. The Ruler designated an official from the Sharjah Economic Department to formulate an anti-counterfeiting campaign, in consultation with the U.S. Mission and industry representatives.

-- According to the Khaleej Times, Sharjah Police raided a retail computer store in February 2003, and seized a number of PCs loaded with pirated software. The police also seized 81 CDs containing copies of pirated software.

-- Abu Dhabi authorities recently raided a number of companies for using pirated software, and police arrested five people and seized nine PCs. The computers were loaded with illicit copies of Microsoft Windows Office, Norton AntiVirus and 28 other pirated software programs. The UAEG has undertaken a massive public relations campaign with the Business Software Alliance targeting computer end-users and raising awareness about the negative effects of using pirated software.

-- UAEG officials recently told Embassy officers that they are stepping up efforts to combat the trade of counterfeit goods across the porous Oman-UAE border near the city of Al-Ain. The Director of the UAE's Copyright Office said that he has asked his Omani counterparts to better enforce IPR legislation on their side of the border, but the Omani

authorities have been slow to act (ref B).

-- UAE authorities have asked employers to educate their workers about the legal risks of counterfeiting in an effort to stem video piracy in certain blue-collar neighborhoods outside of Abu Dhabi. Employers have posted signs warning workers that the company will take legal action against workers involved in counterfeiting. According to Abu Dhabi police, this campaign has resulted in the imprisonment and deportation of dozens of counterfeiters in these neighborhoods.

-- Local merchants in Abu Dhabi have formed a committee to strategize with Abu Dhabi law enforcement on ways to combat video piracy. The UAEG is cracking down on counterfeiters in response to complaints by movie distributors, video store owners, and local cinemas (ref F).

Ensuring IPR Protection For The Long-Term

¶13. (U) The UAE Government is examining ways to further reduce the flow of counterfeit products and trademark infringement in the country. To this end, the National Anti-Fraud Committee was established in 2001 under the aegis of the Ministry of Economy and Commerce. The Committee's scope of responsibility was broadened in 2002 to allow for the study of commercial fraud and counterfeit and imitation trademarks, and requires that the Committee propose combating measures on an annual basis.

¶14. (U) In March 2003, Dubai hosted a conference on "Middle East Law in the Internet Age" that brought together intellectual property and technology lawyers, government officials, and the private sector to discuss recent legal developments in the area of electronic transactions, intellectual property and the Internet. The Dubai Chamber of Commerce, in cooperation with the International Trademark Association, also sponsored a roundtable discussion on IPR protection in December 2003. Officials from the Ministry of Economy, Ministry of Information, the Dubai Economic Development Department and the Criminal Investigation Department of Dubai Police attended, as well as local law firms and representatives of brand owners from major multinational corporations.

¶15. (U) The UAEG has welcomed the opportunity to participate in USG-sponsored training on IPR enforcement. Most recently, the UAEG sent two representatives to an IPR enforcement seminar in Oman, co-sponsored by the GCC patent Office, the International Anti-Counterfeiting Coalition, and the U.S. Patent and Trademark Office. The UAEG has also offered to host a MEPI-funded IPR training workshop for the GCC in Abu Dhabi in April 2004.

UAEG, Steadfast Ally Against Terrorism

¶16. (SBU) The U.S. Mission objects to the International AntiCounterfeiting Coalition's (IACC) attempts to link counterfeit trade and terrorist activity in the UAE, and categorically rebuts any suggestion by the IACC that the UAEG knowingly facilitates Al-Qaeda activity. The UAEG has sought to crackdown on potential vulnerabilities in the financial markets and prevent trade-based money laundering, and has provided outstanding cooperation in the international effort to combat terrorism. In close concert with the United States, the UAEG has frozen the funds of groups with terrorist links -- to date, more than USD \$3.13 million in 18 bank accounts in the UAE since 9/11. Additionally, the UAEG has provided international organizations and foreign governments data on 172 cases related to terrorist financing.

¶17. (U) This cable has been coordinated with Dubai.

